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PATENT

Attorney Docket No.: W1200-00066

III. Remarks

A. Entry of After Final Amendments

Applicants filed after-final amendments on January 5, 2006. After these amendments, Claims 1-3, 5-17, 19-26, 28-35 and 37-40 were pending. These amendments were denied entry in the Advisory Action of January 18, 2006. The present action states that the "amendments filed after final are hereby entered." However, this new action examines the Claims 1-17, 19-35 and 37-40, even though claim 4 and 27 were canceled by the amendment purportedly entered. But, consistent with entry of the amendments, the Action also addresses limitations that were amended into the claims in the after-final amendment. For example, the Examiner states that Claim 1 requires the step of "identifying on said map display an indication of a location of at least one existing non-lottery retailer." See Action, Page 5. In the amendments presented herein, Applicants have proceeded on the assumption that Claims 1-17, 19-35 and 37-40 are pending as presented before the final action, i.e., that the amendments were not entered.

B. Amendments

Amendments to Claims 1, 14, 24 and 33 are discussed below in subsection C.

Claim 4 has been canceled in view of the amendments to Claim 1.

Claim 5 has been amended consistent with the amendments to Claim 1 and the cancellation of Claim 4.

Claim 23 has been amended consistent with the amendments to Claim 14.

Claim 27 has been canceled in view of the amendments to Claim 24.

Claim 28 has been amended consistent with the cancellation of Claim 27.

Claim 40 has been amended consistent with the amendments to Claim 33.

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The Action rejects Claims 1-17, 19-35 and 37-40 as being obvious in view of Microsoft's MapPoint as disclosed by: (a) "Divide and Conquer" by Baker; (b) "Microsoft MapPoint 2000 Delivers New Mapping and Analysis Program"; and (c) "MapPoint 2002" by Farris. Reconsideration and withdrawal of this rejection are respectfully requested.

Claim 1 has been amended to clarify that the unique identifiers assigned to the lottery retailers distinguishes individual ones of the lottery retailers by types of lottery games sold. For example, if a lottery retailer only sells the "Pick 6" lottery game, it is assigned a first unique identifier. If a lottery retailers sells "Pick 6" and instant ticket lottery games, it is assigned a second unique identifier, etc. Unique identifiers assigned based on types of games sold are not lottery sales data.

In addressing this unique identifier assigning step and the step of identifying the retailers on the map display using the unique identifiers, the Examiner cites to the general description of the data wizards provided by Farris and Applicants' alleged admissions in the present application that "sales data" are identified on a map display using the MapPoint software package, specifically the Data Mapping Wizard. Claim 1 does not recite that sales data are mapped. Rather, unique identifiers are assigned to the lottery retailers to "distinguish individual ones of said lottery retailers by types of lottery games sold by said plurality of lottery retailers." It is these assigned unique identifiers, not sales data, that are mapped in Claim 1.

These steps are directed to categorizing lottery retailers and showing those retailers on a map using unique identifiers correlated to the category that applies to the respective retailer. While generic functionality may be built into MapPoint to allow Applicants to configure MapPoint to perform these steps, there is no showing in the art of record that MapPoint has been used in the art in this manner.

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Further, the Examiner cites to *In re Gulack* and other references for support for declining to consider the use of the claimed method steps in the context of lottery data and lottery retailers. *Gulack* references hold that descriptive material not functionally related to the substrate will not distinguish the invention from the prior art. See MPEP 2106 and 2112.01. This concept, however, is not applicable here. Applicants do not claim a substrate, e.g., processor, that stores data. Rather, applicants claim a method (not a substrate) that utilizes a processor configured to operate in a particular manner with specific data. Still further, even if a processor configured with mapping software is old, it is black letter patent law that a "new use of a known process, machine, manufacture, composition of matter, or material" can be patentable. 35 USC §101.

For at least these reasons, it is submitted that Claim 1 is not obvious from the cited references.

Claim 1 has also been amended to affirmatively recite the step of "obtaining location information for at least one existing retailer that does not sell lottery games." This amendment emphasizes the distinction discussed in previous responses between lottery retailers, i.e., a retailer that sells one or more lottery products, and non-lottery retailers, i.e., retailers that do not sell any kind of lottery product.

Finally, Claim 1 has been amended to recite the step of "identifying on said map display a location of said at least one existing retailer that does not sell lottery games." Therefore, Claim 1 requires that lottery retailers are identified on the map display (by their assigned unique identifiers, discussed above) and at least one existing retailer that does not sell lottery games also is identified on the map display.

The Examiner relies on the Manufacturers and Traders Trust (MTT) example from Baker, Page 4, for providing these features, noting the "idea is that a company can look at its

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locations along with products sold at those locations and determine whether to introduce a new product or service to better meet demands of the area demographic.”

Applicants traverse whether the MTT example provided by Baker teaches or suggests that MTT plotted its existing banking locations on the map, let alone an existing retailer that does not sell banking products. The MTT example does not expressly state that existing bank locations are mapped on the display nor does it inherently (i.e., necessarily) require existing bank locations to be displayed. The entirety of the MTT description is as follows:

Other mapping possibilities are generic to businesses of all sizes, including the way Manufacturers and Traders Trust analyzes demographic data to display concentrations of customers meeting age and income criteria that can be used to develop new banking products and promotions for specific market groups.

Baker only discloses that MTT used the software to plot (a) demographic data and (b) customers, not branch locations. MTT could use separate branch location information, such as zip code or general institutional knowledge, to cross-reference the displayed demographic data and customer data against known existing branch locations.

Second, even assuming for argument's sake that the MTT bank example relied on by the Examiner does display existing branch locations as a part of the process, and somehow distinguishes these locations by the products they sell, as discussed above the claims require the identification of a location of at least one existing retailer that does not sell lottery games. Clearly, if the “idea is that a company can look at its locations along with products sold at those locations and determine whether to introduce a new product or service to better meet demands of the area demographic” as noted by the Examiner, a display of a non-bank locations would be of

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no use. The MTT banking example of Baker, as interpreted by the Examiner, displays only existing branch locations, albeit differentiated by the products each branch sells. It would not display retailers that do not sell banking products at all, i.e., a non-bank retailer (e.g., a gas station).

Per the foregoing, it is submitted that independent Claim 1 is not obvious from the art of record and is, therefore, allowable. Claims 2-3 and 5-13 depend from Claim 1 and are, therefore, also allowable for at least the reasons set forth above.

Amended independent claim 24 recites features that parallel those of independent Claim 1 and has been further amended to affirmatively recite a data storage comprising location information for a plurality of lottery retailers, lottery game type data associated with lottery retailers, and location information for at least one existing retailer that does not sell lottery games. For at least the reasons set forth above, it is submitted that claim 24 is also not obvious and is allowable over the art of record. Claims 25-26 and 28-32 depend from Claim 24 and are also allowable for at least the reasons set forth above.

Reconsideration and withdrawal of the rejection of these claims are respectfully requested.

Like claim 1, amended independent Claim 14 recites that location information is obtained for both a plurality of lottery retailers and "existing retailers that do not sell lottery games." Amended independent Claim 14 also recites that in addition to identifying on the map display a location of at least one lottery retailer, the location of at least one of said existing retailers that do not sell lottery games is identified. For at least the reasons discussed above in connection with Claim 1, it is submitted that the art of record does not teach this combination of features. Therefore, it is submitted that Claim 14 and Claims 15-23, which depend from Claim 14, are allowable over the art of record.

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Amended independent Claim 33 recites features that parallel those of Claim 14 and further has been amended to recite a data storage comprising location information for a plurality of lottery retailers, lottery sales data associated with said lottery retailers, and location information for at least one existing retailer that does not sell lottery games. For at least the reasons discussed above, it is submitted that Claim 33 and Claims 34-40 are not obvious from and are allowable over the art of record.

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IV. Conclusion

In view of the foregoing remarks and amendments, Applicants submit that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account 04-1679.

Respectfully submitted,

Dated: 10-06-2006


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